

## NEBRASKA STATE BOARD OF HEALTH MEETING

### D R A F T MINUTES – June 20, 2011

**ATTENDANCE NOTIFICATION.** A regular meeting of the State Board of Health was called to order by the Chair, Gary Westerman, DDS, at 1:05 PM on June 20, 2011 in conference room 1-Z of the Nebraska State Office Building in Lincoln. Copies of the agenda were mailed to board members, news media, and other interested parties prior to the meeting. The meeting was advertised on the Department of Health and Human Services website. Committee meetings were held at the same location from 9:00 am to 11:30 am. The following members were present: Janet Coleman; Russell Hopp, DO; Diane Jackson, APRN; Ken Kester, PharmD, JD; Dale Michels, MD; Debra Parsow; Roger Reamer, MBA; Rich Robinson, PE; Paul Salansky, OD; John Tennity, DPM; Gary Westerman, DDS.

Members not in attendance: Daniel Bizzell, EdD; Edward Discoe, MD; Ted Evans, DVM; Luisa Rounds, RN; Wayne Stuberg, PhD, PT; and Daryl Wills, DC.

Staff attending: Ron Briel, Monica Gissler, David Montgomery, Anne Owens

**APPROVAL OF AGENDA.** There being no objections to the agenda for the June 20, 2011 meeting, the agenda was approved by consent calendar. Dr. Westerman added an agenda item under new business – a letter from the Nebraska Dental Hygiene Association and their attorney. Ms. Gissler added an item to discuss the 2012 meeting dates. Dr. Michels moved; with a second from Ms. Parsow.

**APPROVAL OF MINUTES.** The minutes from March 21, 2011 as amended were approved by consent calendar. No changes were suggested. Minutes approved by Dr. Michaels, seconded by Ms. Coleman.

**CHAIRPERSON'S REPORT.** Dr. Westerman reported on the following:

1. LB 898 stipulates that a copy of the Public Open Meeting law must be posted at meetings. We do have a copy available for inspection on the wall above the handouts table.
2. Dr. Westerman asked if any members have attended any professional board meetings that they would like to report on.
  - Dr. Kester attended the May 16<sup>th</sup> Board of Pharmacy meeting.

There is a current 2011 Professional Board Meeting Schedule on the handout table. It is important that you let Monica know in advance when you plan to attend a meeting, and if you plan to attend the entire meeting or just a portion. If the meeting includes a working lunch, a lunch will not be ordered for you unless specific arrangements are made. Ms. Gissler asked members to review the professional board liaison list and submit changes so that members are all spread out over all of the boards instead of 6-7 assigned to one board, etc.

3. Ms. Parsow reported that she, Dr. Westerman, Dr. Stuberg and Ms. Rounds attended the WELCOM Well Workplace Award Luncheon last month. DHHS received the Gold standard

award for their workplace wellness program. 9/11 participant presented a very emotional presentation. Dr. Westerman added that the guest speakers were excellent.

4. Dr. Westerman is pleased to participate in the June 2<sup>nd</sup> Mission of Mercy dental program in Grand Island. 1,500 patients were treated.
5. We have confirmed that we will meet at the new Bellevue Medical Center on September 19<sup>th</sup>, and conduct professional board interviews there the day before as well.
6. We have several members absent today. It is extremely important that you let Monica know when you have a planned absence, so we can assure we have a quorum to meet.
7. Jenifer Roberts-Johnson, J.D., has been selected as the new Chief Administrator for the Division of Public Health, following Dr. Jackie Miller's departure. She recently worked as the Administrator of the Operations Section for the Division of Medicaid & Long-Term Care. She began her new position on June 6, 2011.
8. I was sad to note the passing of Kathryn White, RN, who had come before our Board in March to present information on the Hepatitis program. We did send a card on behalf of the Board of Health to her family. (She died in a car accident one month ago, and leaves a husband and a developmentally disabled 19-year old son.)
9. The state fiscal year cut-off to submit expenses is close of business today. Please make sure your expense reimbursement form is signed and returned to Monica as quickly as possible.
10. Ms. Gissler has asked that members review the Professional Board Meeting Schedule under Tab 2, in particular the liaisons assigned to the various boards. We want to make sure the assignments are fair, and reflect the interests of the Board of Health members.
11. Dave Montgomery introduced his new staff person, Sara Dodder Furr, Quality Assurance Coordinator in the Licensure Unit. Sara has a strong background with National Research Corporation.
12. At the end of our meeting, we will discuss our Board of Health meeting dates for 2012, and decide if we want to schedule five regular meetings again, as a cost saving measure.

**DEPUTY CHIEF MEDICAL OFFICER'S UPDATE.** Dr. Acierno reported the following:

**Kathryn White.** I have sad news about Kathryn White, who gave a presentation about the Hepatitis Program at the last board meeting. She was killed in a car accident on May 18. This is a loss not only to her family and the people she worked with, but also to the cause of hepatitis education, treatment and prevention. She was a nationally recognized hepatitis program manager whose efforts displayed dedication, caring and enthusiasm. As Dr. Schaefer has said, she was the true embodiment of what it means to practice public health.

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**Flu.** Right now, there is no flu activity in the state. May is the month that flu reporting to the CDC ends. The last week we reported any flu activity was for the week ending April 30. Overall, the flu season was a moderate one. It was an odd year in that we had 4 strains circulating, only 3 of which were covered by the vaccine. The 4<sup>th</sup> strain was pretty rare. The most common was Type A (H3 N2) which made up 43 percent of all cases.

**Oral Health.** The Office of Oral Health has a new program to deliver dental supplies to 6,600 children in the state. The Take Home Toothbrush Program promotes good oral health for children enrolled in 195 Head Start and Early Head Start programs. The goal is to reduce dental cavities in low-income kids by sending home toothbrushes and toothpaste quarterly.

There are great disparities in oral health services because of the uneven distribution of dentists across the state. 53 of Nebraska's 93 counties have either inadequate or non-existent access to dental care. Douglas and Lancaster Counties account for 56% of the dental workforce. The Rural Health Advisory Commission has designated 53 counties in the state as Dental Health Professional Shortage Areas.

**Flooding.** The state's Emergency Operations Center has been called out, and Public Health folks are involved in the activities surrounding the floods, both in eastern and western Nebraska.

We have water field representatives working daily with public water systems and private well owners. The Environmental Public Health Lab is expecting an influx of samples for testing.

The Radiological Health staff checked on licensees and the Asbestos Program checked on the status of removal projects to make sure that asbestos debris would not be soaked or distributed by flood waters. One removal project was cancelled because of the flooding.

Public Health is GIS mapping hospitals, group homes and nursing homes in flooding areas so we can get a handle on any facilities that might be affected.

Licensure staff have been in contact with potentially affected health care facilities to make sure they have up-to-date disaster plans and that if ordered to evacuate they are ready to move residents.

Staff have expedited the licensing of places where child care programs have temporarily relocated. Two facilities that are licensed as mental health centers and are certified for Medicaid payments as psychiatric residential treatment facilities for persons under age 21 years have relocated their residents from South Sioux City to Sioux City.

Staff have assisted in the identification of vacant beds in Nebraska health care facilities and have alerted the Iowa survey agency that some Nebraska nursing home residents might be headed their way.

Although no Nebraska facilities have requested waiver of any Medicare/Medicaid certification

regulations, licensure staff have information ready to disseminate to the facilities in the event facilities would request it. CMS will not grant anticipatory waivers for Medicare and Medicaid but will work with facilities to make any waivers retroactive to the date the situation occurred that warranted the waivers.

Several staff from the Emergency Preparedness area are working at the State Emergency Operations Center. Some are working with local health departments to make sure they have adequate resources to deal with vulnerable populations, should they have to be evacuated. The EMS program is contacting local EMS services to see if they have needs.

There are many others in Public Health who are working on the flood response. Public Health is in it for the long haul and it might really be a long haul because the experts are saying that flood waters may be around until sometime in August.

**LEGISLATIVE UPDATE.** Bryson Bartels, HHS Communications, provided a written update. The Legislative Session ended sine die early, on May 26<sup>th</sup>. Mr. Bartels reviewed legislation having an impact on Health and Human Services, and answered questions. For more information, call Bryson at 402/471-0541 or email at [bryson.bartels@nebraska.gov](mailto:bryson.bartels@nebraska.gov).

### **COMMITTEE REPORTS.**

**Credentialing Review (407) Committee** – Ms. Coleman, Committee Chair, presented. The optometry bill was submitted for a 407; a LR for ABA and a LR for 407 – hope that this is a continuation of the work we have done in the past. Mr. Montgomery and Dr. Acierno will probably be meeting with Senator Gloor regarding LR212 for 407 this week.

### **Legislative bills from the 2011 Legislative Session:**

- LB 68: Nurse Midwifery hospital privileges—passed and signed
- LB 222: Pertinent to 407—held over
- LB 316: Optometry bill—Referred to 407
- LB 330: Dental Hygiene bill—No action taken, held in Committee
- LB 481: Bill to exempt some groups from Radiological Technology licensure— No action taken, held in Committee
- LB 534: Photo Therapy bill—indefinitely postponed
- LB 630: ABA licensure— No action taken, held in Committee

### **Other Issues that might undergo credentialing review in the near future:**

**Lactation Consultants:** Staff has met with a representative of this group and this representative indicated that their group wants to become licensed, although they are not as yet ready to begin the process necessary to accomplish this.

**Radiological Technologists:** A representative of this group has indicated that they want to

meet with staff to discuss their idea of a possible 407. As yet, we do not know what this idea might be.

Dental Assistants: Representatives of Dentists, Dental Hygienists, and Dental Assistants have been meeting as part of a Dental Assistants Task Force to discuss optional means by which Dental Assistants might become regulated.

Dr. Michels made a motion to receive this Committee report; second by Dr. Hopp; all in favor by voice vote.

**Rules and Regulations Committee** – Dr. Kester, Committee Chair, reported on the following:

Sarah Sujith, DHHS staff attorney, provided an LB 617 overview, with handouts. Three key points: 1) The public Hearing must be held within 12 months of the bill's effective date; 2) There is a time limit of one year after the public hearing to approve the regulations; and 3) The Department has to send an annual report to the Legislature related to the status of the regulations.

Kay Pinkley – UCA Regulations update. A list of regulations that need to be updated, and the current status, was distributed.

Dr. Michels made a motion to receive this Committee report; second by Ms. Parsow; all in favor by voice vote.

**Professional Boards Committee**. Dr. Tennity, Committee Chair, reported the following:

1. Interviews were conducted this morning. Dr. Tennity made a committee motion for the following professional board appointments:

Amy Fish, of Lincoln, for appointment to the Proprietary Home Member of the Board of Nursing Home Administration, for the partial term of June 20, 2011 – November 30, 2015.

Wendy McCarty, EdD of Grand Island, for the Public Member position on the Board of Nursing, for the partial term of June 20, 2011 through November 30, 2011.

Voting yes: 11 (Coleman, Hopp, Jackson, Kester, Michels, Parsow, Robinson, Rounds, Salansky, Tennity, Westerman); voting no: 0; not voting: 0. Motion carried.

2. Meetings were held this morning with three Professional Board Chairs: Medicine and Surgery; Mental Health Practice; and Nursing. Mentoring within the board members (new members being mentored by older ones) is being done within the boards. The Committee appreciates Mr. Henkenius, Mr. Danforth, and Ms. Higgins taking the time to come meet with them.
3. Applications and all associated documents for incumbents seeking reappointment are due by

July 1<sup>st</sup>, and are due by August 1<sup>st</sup> for new applicants. The Committee wants to decrease the amount of documents that trickle in past the due date. Dr. Tennity said there are lots of interviews to be conducted on September 18 in Bellevue and on October 16 in Lincoln. Prescreening materials will be sent to Professional Boards Committee members and Board officers in early August, and any other help will be appreciated.

Dr. Salansky made a motion to receive this Committee report; second by Ms. Jackson; all in favor by voice vote.

**Public Health, Education and Legislation Committee:** Dr. Hopp, Committee Chair, reviewed legislative bills and interim studies discussed earlier in the day. Refer to attachments for details.

1. Legislation 2011
  - a. Session summary - Passed – LB 67 (BOH sent letter); LB 68 (BOH did not send letter)
  - b. Interim Studies
    - LR 208 - Interim study to determine the best manner in which to license certified applied behavioral analysts, by McGill
    - LR 212 - Interim study to review the operations and usefulness of the Nebraska Regulation of Health Professions Act, by Gloor
    - LR 258 - Interim study to examine the availability of technology to provide the electronic request and approval of prior authorization requests for medical and pharmacy interventions, by Price
    - LR285 – Interim study to review the shortage of nurses.
    - LR 293 - Interim study to continue the work of the select committee appointed pursuant to LR467, 2010, to conduct research regarding the federal Patient Protection and Affordable Care Act, by Campbell
    - LR 317 - Interim study to examine the funding formulas for the federally qualified health centers (FQHCs), by Heidemann
2. Impact of LB 617 – timeline for processing of regulations (Handout under R&R tab). This was addressed by Ms. Sujith during the Rules and Regulations Committee report.

Public Health Recognition: Children's Vision and Learning Initiative, submitted by Dr. Salansky. The PHEL Committee recognized the value of Dr. Salansky's input on this, so invited him to speak about it. Dr. Salansky said their main purpose is to promote healthy vision in preschool children. They have been in existence for about 10 years. They organize a multidisciplinary team with schools, doctors, etc. that meets annually to make certain that all Nebraska children have had vision examinations prior to beginning kindergarten. They also make certain that any child moving into Nebraska from another state has had a vision examination prior to entry into the school system. Roll call vote: Voting yes: 11 (Coleman, Hopp, Jackson, Kester, Michels, Parsow, Robinson, Rounds, Salansky, Tennity, Westerman); voting no: 0; not voting: 0. Motion carried. Dr. Salansky agreed to present the award in September.

Ms. Coleman made a motion to receive this Committee report; second by Dr. Michels; all in favor by voice vote.

**UNFINISHED BUSINESS.** Dr. Tennity and Ms. Parsow had discussed the idea of some form of recognition for professional board members who have gone above and beyond the reasonable call to duty. This will carry over to September.

**NEW BUSINESS.**

- Public comments: None
- June 16<sup>th</sup> letter from dental hygienists to Kerry Winterer – continue discussion at the next meeting. Regarding SOP of dental assistants. It was mailed to BOH members at home, along with the Governor, Dr. Schaefer, the HHS Legislative Committee, and Board of Health staff.
- Board of Health 2012 meeting dates. There is a statutory requirement of four meetings annually. The Board used to meet six times annually, but has reduced it to five regular meetings the past two years as a cost savings effort. Dr. Michels suggested a straw vote, which favored five meetings, the second of which would be moved back a week to March 26<sup>th</sup>. Unanimous approval. Ms. Gissler asked if members want to host a legislative luncheon in January 2012. Dr. Michels said with a legislature with short memory because of turnover; the more we can educate them, the better. Ms. Jackson added that putting names and faces together is good. We will plan to have one in January 2012. The proposed 2012 meeting dates are as follows:

January 23 – legislative luncheon  
March 26 – moved to the 4<sup>th</sup> Monday  
June 18  
September 17  
November 19

- Dr. Hopp shared that Dr. Westerman was presented with an endowed Chair for Ethics in Dentistry at Creighton. He had to relinquish an endowed chair to accept this one.

**PREPARATION FOR NEXT MEETING.** The next regular Board of Health meeting will be September 19, 2011 at 1:00 PM at Bellevue Medical Center in Bellevue. Professional board interviews will be held at the same location on Sunday, September 18<sup>th</sup>.

**ADJOURN.** There being no further business, the meeting adjourned at 1:53 PM. Minutes taken by Anne Owens and Monica Gissler.

***NOTE:*** If you would like to receive these minutes electronically instead of receiving a hard copy, please send a request to the email address below. Please also inform staff if you would like to be removed from this distribution list altogether. *If you would like any attachments mentioned in these minutes, or have other questions, please contact Monica Gissler, 402/471-6515, Fax 402/471-0383, or email at: monica.gissler@nebraska.gov. 8/29/11 mcg*